

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.**

WRIT PETITION NO. 3367 OF 1996.

M/s G. Powar & Sons	... Petitioner.
V/s.	
Mahadeo I. Tevare	... Respondent.

Shri G.S. Godbole for the petitioner.

Shri K.S. Bapat for the respondent.

CORAM : V.C.DAGA, J.

DATED : 10 .4. 2006.

P.C. :

. This petition is directed against the award dated 21.8.1995, passed by the Labour Court, Kolhapur in Reference (IDA) Nos. 1,3 and 7 of 1984, whereunder oral termination order dated 10.1.1993 issued by the petitioner to the workmen was declared illegal and improper, with further direction to reinstate the workmen with continuity of service and full backwages for the period 10.1.1983 and 1987. This Court while granting rule on 9.8.1996 had passed the following order:

"Rule.

. In this case the impugned Award is stayed subject to the petitioners complying with the provisions of Section 17B of the Industrial Disputes Act. It is clarified that this order will operate with immediate effect and if the Employer finds that worker is gainfully employed then the Petitioners are at liberty to move this Court by way of Civil Application/Affidavit and till the

said application is heard and disposed of, the worker will continue to receive the benefit of section 17B of the Industrial Disputes Act and it will not be open to the petitioner to contend that he will not pay till Civil Application is disposed off. This order is required to be passed because as of today prima facie it is not proved that the worker is gainfully employed. If there is breach of this order, the stay granted will ipso facto end. As regards the backwages upto the date of the Award, the Company will deposit 50% thereof in this Court within 4 weeks. Liberty to worker to apply by way of Civil Application for withdrawal if so advised."

2. There is no material on record to show compliance of the above order. When this matter came up for hearing before this Court on 14.11.2005, petition was kept part-heard and adjourned for one week to enable the learned Counsel for the petitioner to take instructions from his client and to inform this Court as to whether or not the above order dated 9.8.1996 has been complied with.

3. This petition was again placed before this Court on 28.11.2005 for further hearing. Shri Godbole, learned Counsel for the petitioner sought time to circulate written submissions. Accordingly, written submissions were circulated and the matter was placed for further hearing on 5.12.2005. Thereafter, it was again adjourned to 12.12.2005 and 28.12.2005 respectively. With the change of assignment, the matter was ordered not to be treated as part-heard.

4. The above petition again appeared before the Bench of Shri P.V. Kakade, J. on 9.1.2006. It was adjourned to 16.1.2006 and thereafter, matter came up before this Court on 28.3.2006.

5. During the course of hearing, this Court desired to know from the learned Counsel for the petitioner as to whether or not order dated 9.8.1996 has been complied.

6. Shri Godbole learned Counsel for the petitioner expressed his helplessness to give any answer to the question posed. On the contrary, he handed over one letter dated 13.12.2005 addressed by him to his client with a copy to local counsel wherein he had requested the petitioner to inform him whether or not the order dated 9.8.1996 has been complied with. He has also placed on record the slips evidencing despatch of his letter. He submitted that he has not heard anything from his client and that he has no instructions about the compliance of the order dated 9.8.1996.

7. In the above view of the matter, in absence of any material on record showing compliance of the order dated 9.8.1996, I do not think this is a fit case wherein this Court should exercise writ jurisdiction in favour of the petitioner.

8. The person, who does not want to comply with the orders of this Court, can hardly be allowed to invoke writ jurisdiction of this Court. Orders of the Court are meant for compliance. If litigant has no intention to comply with the order of the Court or courtesy to inform the Court as to whether or not order has been complied with, this Court is not expected to show indulgence in favour of such litigant.

9. In the above view of the matter, this petition is liable to be dismissed for non-compliance of the order of this Court dated 9.8.1996. In my considered view, mere dismissal of the petition will not serve the ends of justice. The petitioner has enjoyed the fruits of interim order without complying with the conditions thereof. The petitioner has used money for its benefit. At the same time, petitioner has deprived the workman of the benefit of using the said amount. The respondent-worker needs to be compensated in terms of money for the period for which he was deprived of the use of the money. The petitioner at the same time must also face the consequences of non-compliance of the order of this Court. Hence, while dismissing this petition, I direct the petitioner to pay; within four weeks; the monetary part of the liability flowing from the impugned order with interest thereon @ 10% p.a. from the

date of the impugned order till payment in full and
final. Failure on the part of the petitioner to
comply with this order within prescribed time
schedule fixed herein, the rate of interest shall be
@ 12% p.a. instead of 10% as ordered.

10. The petition is dismissed for the reasons
recorded with costs quantified in the sum of
Rs.10,000/- (Rs. ten thousand only).

11. At this stage, learned Counsel for the
petitioners prayed for stay of this order. Prayer
made is rejected.

(V.C.DAGA,J.)